

supervisor, Randy Betterton, about the accident when it occurred. When claimant was terminated on July 1, 1996, he had not sought medical treatment for his injury although he had allegedly taken aspirin from the respondent's medicine cabinet.

After his termination, claimant first sought medical treatment at St. Francis Hospital emergency room in Topeka, Kansas, on July 3, 1996. Although claimant testified he told the emergency room personnel he injured his shoulder at work, the hospital's emergency room records introduced at the preliminary hearing do not substantiate that contention. Instead, the hospital records dated July 6, 1996, indicate claimant denied knowledge of any injuries.

Respondent presented the testimony of Randy Betterton who denied that claimant reported an accidental injury to him.

Based upon the above, the Administrative Law Judge denied claimant's request for preliminary hearing benefits. The Appeals Board agrees with that conclusion. The Appeals Board also finds that claimant has failed to prove timely notice of accident as required by K.S.A. 1995 Supp. 44-520. Claimant's contention that respondent is required to prove prejudice due to lack of timely notice is without merit. Further, respondent is correct that claimant has failed to prove that just cause existed to extend the ten-day notice requirement to 75 days.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated January 15, 1997, entered by Administrative Law Judge Steven J. Howard should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: Timothy J. Pringle, Topeka, KS
Kip A. Kubin, Overland Park, KS
Steven J. Howard, Administrative Law Judge
Philip S. Harness, Director